



Information Notice

Third-Party Business Radio Licensing

Reopening the Licensing scheme

Document No:	10/101
Date:	5 December 2010

This information notice is not a binding legal document and also does not contain legal, commercial, financial, technical or other advice. The Commission for Communications Regulation is not bound by it, nor does it necessarily set out the Commission's final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by it of its functions and powers, and the carrying out by it of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the Commission for Communications Regulation. Inappropriate reliance ought not therefore to be placed on the contents of this document.

Contents

1 Introduction 2

2 Background to Third Party Business Radio Licensing..... 3

 2.1 SPECTRUM ALLOCATION AND 2005 LICENSING PROCESS..... 4

3 Proposals for Re-opening the TPBR scheme..... 6

 3.1 APPLICATIONS FOR FUTURE TPBR LICENCES 8

4 Application Process for Third Party Business Radio Licences. 9

Annex 2 Wireless Telegraphy Regulations 646 of 2005 10

1 Introduction

The purpose of this Information Notice is to:

- Provide background to the Third-Party Business Radio Licensing (TPBR) scheme in Ireland
- Set out the Commission for Communications Regulation's (ComReg) proposal to reopen the TPBR licensing scheme, to enable the future grant of a limited number of rights of use of spectrum in the VHF and UHF frequency bands (in the form of licences that would be issued under the Wireless Telegraphy Act, 1926, as amended
- Provide information on the application process for new TPBR licences

Annex 1 provides a summary of the legislative framework, including relevant functions and powers, pursuant to which ComReg's proposals are being put forward.

2 Background to Third-Party Business Radio Licensing

In June 2005, ComReg published a Consultation Document on “New Licensing Scheme for Provision of Business Radio Services to Third Parties” (Doc 05/45) and in September 2005 ComReg published a Response to Consultation (Doc 05/74). The Response to Consultation set out ComReg’s position on the introduction of a flexible licensing scheme for TPBR, using frequencies in the VHF and UHF bands. As there was no demand for further TPBR licences ComReg closed the licensing scheme for all new applications on 31 January 2007. This also ensured that licences would terminate within 12 months of each other with a view to reassessing the future use of the scheme.

This UHF spectrum has been set aside, in general, for the use of Business Radio, an Electronic Communications network¹. Since June 2005 ComReg has not received any expression of interest for the use of this spectrum for any service other than business radio². Interest has been expressed by current licensees for a continuation of the current licence scheme.

On the basis of these expressions of interest received, ComReg is of the view that there appears to be demand for the continuance of the TPBR scheme from both existing and potential new licensees.

Therefore, ComReg intends to re-open the TPBR licensing scheme in accordance with its functions and objectives in relation to spectrum, set out in sections 10 and 12 of the Communications Regulation Act 2002, as amended, and having regard to relevant provisions of the Electronic Communications (Electronic Communications Networks) (Framework) Regulations³, the Electronic Communications (Electronic Communications Networks) (Authorisation) Regulations 2003⁴, the Wireless Telegraphy Acts 1926-2009, and the Wireless Telegraphy (Third Party Business Radio Licence) Regulations, 2005⁵

All TPBR licences were issued pursuant to the Wireless Telegraphy (Third Party Business Radio Licence) Regulations, 2005 Regulation 4(1) of which states: *A Licence shall (unless it has been revoked) be in force for a maximum period of five years from the date on which it comes into operation and shall then expire.*

¹ Statutory Instrument S.I. 307 of 2003 defines an “Electronic Communications Network” means transmission systems and, where applicable, switching or routing equipment and other resources which permit the conveyance of signals by wire, by radio, by optical or by other electromagnetic means, including satellite networks, fixed (circuit- and packet- switched, including internet) and mobile terrestrial networks, electricity cable systems, to the extent that they are used for the purpose of transmitting signals, networks, networks used for radio and television broadcasting, and cable television networks, irrespective of the type of information conveyed.

² This includes opportunities in the 2006- 2008 spectrum management strategy and the 2008 – 2010 spectrum management strategy.

³ S. I. 307/ 2003

⁴ S. I. 306/ 2003

⁵ S.I. 646 of 2005

Therefore, and for the avoidance of doubt, all current TBPR licences (listed in Tables 1 and 2) will expire by the end of 2011 and shall not be extended or renewed beyond their expiry dates.

2.1 Spectrum Allocation and 2005 Licensing Process

In 2005, ComReg identified a total of twenty duplex 12.5 kHz channels in each of the following frequency bands for the provision of TPBR licences:

1. 68 – 87.5 MHz (VHF Low Band)
2. 138 – 174 MHz (VHF High Band)
3. 450 – 470 MHz (UHF High Band)

TPBR licence holders were permitted to provide either one-way or two-way voice or data communications at any location within Ireland, subject to complying with the terms and conditions of the licence. Such services could include paging, telemetry and geographic locations tracking services as well as conventional speech and data. Coverage could extend from a single building to wide area, regional or national coverage. The spectrum assigned under such licences could also be made available commercially, on a national or regional basis, to third parties for the provision of their own service, on terms agreed with the licence holder.

The application process for TPBR licences was conducted on a phased basis. The first phase was open to those who had submitted an expression of interest as part of the consultation process, and ran from 9 November 2005 to 7 December 2005. The second phase was open to all interested parties and ran for a year from 1 February 2007, subject to spectrum availability.

Under this scheme, ComReg eventually granted 23 TPBR licences in total, to 9 licensees. In accordance with the TPBR Regulations 2005, the licences were granted for a maximum duration of 5 years after which they expire. All existing TBPR licences will expire by the end of 2011.

There were no applications for licences in the 68 – 87.5 MHz band (VHF Low Band). **Tables 1 and 2** below show the channels that were licensed in the VHF High and UHF High frequency bands.

Channel No.	BTx	BRx	Licence Expiry Date
01	454.2000	478.2000	5 January 2011
02	454.2125	468.2125	5 January 2011
03	454.3250	468.3250	5 January 2011
04	454.3375	468.3375	5 January 2011
05	454.3875	468.3875	5 January 2011
06	454.4000	468.4000	5 January 2011
07	454.4500	468.4500	5 January 2011
08	454.6750	468.6750	5 January 2011
09	454.6875	468.6875	5 January 2011

Third-Party Business Radio Licensing Scheme

10	454.9375	468.9375	5 January 2011
11	454.9500	468.9500	5 January 2011
12	454.9625	468.9625	5 January 2011
13	454.9875	468.9875	2 March 2011
14	457.7750	463.2750	25 April 2011
15	457.8000	463.3000	25 April 2011
16	457.8125	463.3125	19 July 2011
17	457.8875	463.3875	19 July 2011
18	457.9000	463.4000	11 December 2011
19	457.9125	463.4125	11 December 2011

Table 1: Licensed Channels in UHF High Frequency Band

Channel No.	BTx	BRx	Licence Expiry Date
01	165.5875	170.3875	5 January 2011
02	165.3625	170.1625	5 January 2011
03	166.1000	170.9000	5 January 2011
04	166.3625	171.1625	2 March 2011

Table 2: Licensed Channels in VHF High Frequency Band

3 Proposals for Re-opening the TPBR scheme

ComReg is proposing to re-open the TPBR licensing scheme under the existing Regulations (S.I. 646 of 2005). This will provide the opportunity that existing licensees as well as any new operators wishing to enter this market can apply for licences.

There continues to be very limited demand for VHF low frequency assignments in the business radio environment. As a result of the this general limited demand, combined with the fact that there was zero demand for frequencies in the *VHF Low Frequency* band in previous phases of the TPBR licensing scheme, ComReg intends to remove these 20 channels from the TBPR scheme with a view to seeking alternative uses of this band at some later date.

As there was limited take up of licences in the *VHF High-band* ComReg intends to maintain the original 20 duplex channels as listed in **Table 3**. ComReg reserves the right to remove some or all of these channels from the TPBR scheme if demand is not forthcoming.

Channel no.	BTX	BRX
01	165.5875	170.3875
02	165.3625	170.1625
03	166.1000	170.9000
04	166.3625	171.1625
05	166.3875	171.1875
06	166.4125	171.2125
07	166.4625	171.2625
08	166.4750	171.2750
09	166.5375	171.3375
10	165.1875	169.9875
11	165.5250	170.3250
12	166.4250	171.2250
13	167.5000	172.3000
14	167.6375	172.4375
15	167.6625	172.4625
16	167.6500	172.4500
17	167.6750	172.4750
18	167.6875	172.4875
19	167.7000	172.5000
20	167.7250	172.5250

Table 3: Channels Available in the VHF High Frequency Band

Because there was very high demand for spectrum in the *UHF High Band* in 2005, ComReg proposes to make the original 20 channels plus an additional 14 channels available, as listed in **Table 4**. These additional 14 channels, contiguous with the current TPBR frequencies, are not currently being utilised under general business radio licensing and will facilitate the growth of this service if demand, as expressed

does materialise. ComReg reserves the right to remove all or some of these 34 channels from the TPBR scheme if demand is not forthcoming.

Ch Number	BTX	BRX	Note
01	454.2000	468.2000	Original 20 Channels assigned to the TPBR scheme
02	454.2125	468.2125	
03	454.3250	468.3250	
04	454.3375	468.3375	
05	454.3875	468.3875	
06	454.4000	468.4000	
07	454.4500	468.4500	
08	454.6750	468.6750	
09	454.6875	468.6875	
10	454.9375	468.9375	
11	454.9500	468.9500	
12	454.9625	468.9625	
13	454.9875	468.9875	
14	457.7750	463.2750	
15	457.8000	463.3000	
16	457.8125	463.3125	
17	457.8875	463.3875	
18	457.9000	463.4000	
19	457.9125	463.4125	
20	457.9250	463.4250	
21	457.9375	463.4375	
22	458.0125	463.5125	
23	458.0250	463.5250	
24	458.0375	463.5375	
25	458.0500	463.5500	
26	458.0750	463.5750	
27	458.0875	463.5875	
28	458.1875	463.6875	
29	458.2000	463.7000	
30	458.2125	463.7125	
31	458.4000	463.9000	
32	458.4125	463.9125	
33	458.4250	463.9250	
34	458.4375	463.9375	

Table 4: Channels Available in the UHF High Frequency Band

All TPBR licences will be granted under the Wireless Telegraphy (Third Party Business Radio Licence) Regulations, 2005 and will be subject to the provisions of those Regulations and to the conditions set out in the licences.

3.1 Applications for Future TPBR licences

ComReg intends to re-open the licensing TPBR scheme in December 2010 and the following application conditions will apply:

- All applications must be in accordance with ComReg's Guidelines to applicants for TPBR Licences (Doc 05/82R2)
- Applicants may apply for licences from 13 December 2010, however, where the requested spectrum has already been allocated under a current TPBR licence (as per Tables 1 and 2 above), then the new licence will not commence until the current licence has expired
- The licence fee for each 2 x 12.5 kHz channel is €1,000 per annum and is payable in advance for the full five-year term of the licence - i.e. the full fee of €5,000 for five years must accompany each licence application
- Licences will be awarded on a first come first served basis as per the Guidelines document 05/82R2. To deal with the situation where demand exceeds supply; the guidelines make provision for the drawing of lots to assign available frequencies
- There will be no cap on the amount of spectrum /number of licences that can be awarded / granted to any one applicant
- ComReg will grant TPBR licences until all available channels are licensed or until 31 December 2011 after which the scheme will close
- All licences for TPBR shall expire in full, five years from the date of issue, and shall not be renewed or extended thereafter
- ComReg will update its TPBR Guidelines (Doc 05/82R) to reflect the contents of this document.

4 Application Process for Third Party Business Radio Licences.

The revised “Guidelines to Applicants for Third Party Business Radio (TPBR) Licences” (05/82R2) provide guidance on the general terms and conditions associated with the TPBR licensing process.

Applications will be accepted from 13 December 2010. ComReg will stamp the date received on all TPBR applications received. All TPBR applications will be evaluated on a first come first served basis and will be treated equally and evaluated in accordance with the TPBR Guidelines, which includes the drawing of lots should demand exceed supply.

Annex 2 Wireless Telegraphy Regulations 646 of 2005

STATUTORY INSTRUMENT

S.I. No. 646 of 2005

Wireless Telegraphy (Third Party Business Radio Licence) Regulations, 2005

Published by the Stationery Office
Dublin

To be purchased through any Bookseller or directly from the Government
Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2.

Or by mail order from
Government Publications, Postal Trade Section,
51 St. Stephen's Green, Dublin 2
(Tel: 01 6476834/35/36/37; Fax 01 6476843)
Or through any bookseller

(Prn. A5/1715)

Price € 2.54

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 6(1) of the Wireless Telegraphy Act, 1926 (No. 45 of 1926), transferred to the Commission for Communications Regulations by section 9(1) of the Communications Regulation Act, 2002 (No. 20 of 2002) and with the consent of the Minister for Communications, Marine and Natural Resources, pursuant to section 37 of the Communications Regulation Act, 2002 hereby makes the following Regulations:

Citation

- 1 (1) These Regulations may be cited as the Wireless Telegraphy (Third Party Business Radio Licence) Regulations, 2005.
- (2) These Regulations will come into force on the First Day of November 2005.

Interpretation

2. (1) in these Regulations, unless the context otherwise requires:
 - “Act of 1926” means the Wireless Telegraphy Act, 1926 (No. 45 of 1926);
 - “Act of 1972” means the Wireless Telegraphy Act, 1972 (No. 5 of 1972);
 - “Act of 2002” means the Communications Regulation Act, 2002 (No. 20 of 2002);
 - “Apparatus” means apparatus for wireless telegraphy for any of the following purposes:
 - (i) use by the Licensee in conformity with a Licence granted under these Regulations;
 - (ii) use by a person with whom the Licensee has entered into a contract relating to the use of the apparatus in conformity with a Licence granted under these Regulations;

“Authorisation Regulations” means the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations, 2003 (S.I. 306 of 2003);

“Base Station” means a station located at a fixed location which communicates either with mobile stations or fixed mobile stations and mobile stations;

“Business Radio Service” means a service using radio frequencies for transmitting and/or receiving messages for business purposes between two or more stations, at least one of which must be a mobile station.;

“Commission” means the Commission for Communications Regulation established under the Act of 2002;

“Fixed Mobile Station” means a station located at a fixed location which communicates with a base station and/or mobile stations;

“Harmful Interference” means interference which endangers the functioning of a radionavigation service or other safety services or which otherwise seriously degrades, obstructs or repeatedly interrupts any lawfully operating radio-communications service;

“Licence” means a Licence under section 5 of the Act of 1926, to keep, have possession of, install, maintain, work and use apparatus in a specified place in the State;

“Licensee” means any of the following:

- (i) the holder of a Licence (“the Primary Licensee”);
- (ii) a person with whom the Primary Licensee has entered into a contract relating to the use of the apparatus in conformity with a Licence granted under these Regulations (“the Secondary Licensee”);

“Mobile Station” means a station intended to be used while being moved or during halts at unspecified points and includes handportable stations;

“Third Party Business Radio” means radio apparatus used for the provision of business radio services, mainly, but not exclusively, to third parties;

- (2) In these Regulations, unless the contrary intention appears-
 - (a) a reference to a regulation or schedule is a reference to a regulation or schedule of these Regulations
 - (b) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs;
- (3) In these Regulations, a reference to an enactment or regulation may be construed as a reference to the enactment or regulation as amended or extended by or under any subsequent enactment or regulation;
- (4) The Interpretation Acts 1937 to 1997 apply to these Regulations.

Application for Licences and Form of Licences

3. (1) An Application for a Licence shall be made to the Commission and shall be in writing in such form as may be determined by the Commission;
- (2) A person who makes an Application under paragraph (1) of this Regulation shall furnish to the Commission such information as the Commission may reasonably require for the purpose of its functions under these Regulations and, if the person, without reasonable cause, fails to comply with this paragraph, the Commission may refuse to grant a Licence to the person;
- (3) The Commission may grant a Licence in accordance with the provisions of Regulation 9 of the Authorisation Regulations;

- (4) A Licence shall be in the form specified in the Schedule to these Regulations with such variation (if any) (whether by addition, deletion or alteration) as the Commission may determine from time to time or in any particular case.

Duration and Renewal of Licences

4. (1) A Licence shall (unless it has been revoked) be in force for a maximum period of five years from the date on which it comes into operation and shall then expire.

Conditions of Licences

5. It shall be a condition of a Licence that:

- (1) the Primary Licensee will ensure that it complies with the conditions contained within these Regulations and the Schedule;
- (2) the Primary Licensee will ensure that it makes payments of the fees as set out in Regulation 7 of these Regulations;
- (3) the Primary Licensee will ensure that non-ionising radiation emissions from each radio installation operated under the Licence for the purposes of the Service are within the limits specified by the guidelines published by the International Commission for Non-Ionising Radiation Protection (“ICNIRP”) and that it complies with any radiation emission standards adopted and published from time to time by ICNIRP, any standards of the European Committee for Electrotechnical Standards and any standards which may from time to time be specified by the European Union and that the wireless telegraphy apparatus operated under the Licence is not installed or operated at a location in a manner such as to be the cause of the aggregate non-ionising radiation emissions exceeding the limits specified by the guidelines published by the ICNIRP and that it complies with any

radiation emission standards adopted and published by ICNIRP or its successors from time to time, any radiation emission standards of the European Committee for Electrotechnical Standards and any radiation emission standards specified by national and European Community law;

- (4) the Primary Licensee may not, without the consent of the Commission (which shall not be unreasonably withheld) assign the Licence or any of the powers, duties or functions conferred by it or otherwise transfer any of the rights or obligations conferred by it;
- (5) if the address of the Primary Licensee or the person to whom the Licence has been assigned changes, the Primary Licensee or assignee shall, as soon as possible, notify the Commission in writing of the change;
- (6) the Primary Licensee complies with any special conditions imposed under section 8 of the Act of 1972 and subject to which this Licence is deemed by subsection (3) of that section to be issued;
- (7) where consent is granted under paragraph (4) of this Regulation the Primary Licensee shall ensure that the assignee is contractually obliged to provide to the assignor such details as the Commission may request from time to time;
- (8) the Primary Licensee complies with obligations under relevant international agreements relating to the use of apparatus or the frequencies to which they are assigned.

Fees

6. (1) Subject to the methods of payment set out in this Regulation, the fees set out in Regulation 7 are payable in respect of Licences granted by the Commission pursuant to section 5 of the Act of 1926;
- (2) Fees shall be paid to the Commission for Communications Regulation by way of banker's draft or such other means and on such terms (including terms as to the place of payment) as the Commission may decide. Where the date of payment falls on a Saturday, a Sunday or a public holiday payment shall be made on or before the last working day before the date of payment;
- (3) An amount payable by a person in respect of a fee under these Regulations may be recovered by the Commission from the person as a simple contract debt in any court of competent jurisdiction;
- (4) If a Licence is suspended or revoked, the Primary Licensee shall not be entitled to be repaid any part of the fee paid by the Primary Licensee under these Regulations but shall still be liable to pay any sums (including interest) outstanding;
- (5) Where payment is not made in due time, then interest shall be payable by the Primary Licensee at the rate per annum standing specified for the time being in section 26 of the Debtors (Ireland) Act, 1840 (1840 c.105), on the fee or part thereof in respect of the period between the date when such fee or part fell due and the date of payment of such fee or part.

Spectrum Fees

7. The following fees shall apply on the grant of a Licence subject to Regulation 4(2)

Where the Licence is a Licence to which these Regulations apply the Primary Licensee shall pay a fee of

€1000 per 12.5 kHz channel per year for the duration of the licence.

Licensee to satisfy all Legal Requirements

8. Nothing in these Regulations shall absolve the Licensee from any requirement in law to obtain such additional consents, permissions, authorisations or licences as may be necessary for the provision the service and for the exercise of his or her rights or discharge of his or her obligations under the Licence. The Licensee is responsible for all costs, expenses and other commitments (financial and non-financial) in respect of the Licence and the provision of the service and the Commission shall bear no responsibility for such costs, expenses or commitments.

Licences to which these Regulations apply

9. These Regulations apply to a Licence to keep, have possession of, install, maintain, work and use apparatus for the purpose of third party business radio services.

Schedule

Regulation 3

WIRELESS TELEGRAPHY ACT, 1926

Section 5

Third Party Business Radio Licence

Licence No.

Fee

Licensee

Postal Address

In Full

The Commission, in exercise of the powers conferred on it by section 5 of the Wireless Telegraphy Act, 1926 (No. 45 of 1926) and Section 9(1) of the Communications Regulation Act, 2002 (No. 20 of 2002) grants to the Licensee specified, authorisation to keep, have possession of, install, maintain, work and use apparatus as specified in Part One of this licence subject to the Licensee observing the conditions contained in Regulation 5 of the Wireless Telegraphy (Third Party Business Radio Licence) Regulations, 2005 (S.I. No. of 2005)

Date+ Stamp

From _____ *to* _____

Issuing Officer _____

For and on behalf of the Commission for Communications Regulation

Part One

Statement of authorised Apparatus

To include:

Description of apparatus

Places at which the Licensee is authorised to keep and have possession of the

Apparatus

Technical restrictions

Details of spectrum

And, where applicable,

Roll-out plan

Minimum Loading Criteria

Commitments made in course of comparative evaluation

GIVEN under the official seal of the Commission for Communications Regulation,
this 12th day of October, 2005

For and on behalf of the Commission for Communications Regulation

The Minister for Communications, Marine and Natural Resources consents to the
making of the foregoing Regulations.

GIVEN under the Official Seal of the Minister for Communications, Marine and
Natural Resources

this 6th day of October, 2005

Noel Dempsey T.D.

Minister for Communications, Marine and Natural Resources

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

These Regulations provide for the issue of Licences for apparatus for wireless telegraphy used solely for the purpose of third party business radio, for the regulation of radio apparatus and for the payment of fees by persons granted Licences for that purpose.